

AMENDED IN SENATE AUGUST 23, 2005
AMENDED IN ASSEMBLY MARCH 17, 2005
CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 379

**Introduced by Assembly ~~Member Evans~~ Members Koretz, Evans,
Goldberg, Laird, Leno, and Lieber**
(Principal coauthor: Senator Kuehl)
(Coauthors: Senators Kehoe and Migden)

February 11, 2005

~~An act to amend Section 11322.8 of the Welfare and Institutions Code, relating to public social services. An act to amend Section 1365.5 of the Health and Safety Code, and to amend Section 10140 of the Insurance Code, relating to insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 379, as amended, ~~Evans~~ Koretz. ~~CalWORKs~~. Insurers: health care service plans: discrimination.

Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for licensing and regulation of insurers by the Department of Insurance.

Existing law prohibits certain discriminatory acts by health care service plans and insurers. With respect to health care service plans, certain discrimination based on the sex of an enrollee is prohibited. With respect to life and disability insurers, an insurer may not refuse to accept an insurance application, or issue or cancel insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, color, religion, national origin, ancestry, or sexual orientation. The

Insurance Commissioner has authority to assess specified administrative penalties for a violation of these provisions.

This bill would add “sex” to the insurance provision governing life and disability insurers. The bill, for purposes of both of these provisions, would provide that “sex” shall have the same meaning as “gender,” as defined. The bill would state the intent of the Legislature in that regard.

~~Existing law requires CalWORKs recipients, unless exempt, to participate in welfare-to-work activities as a condition of eligibility for benefits.~~

~~Under existing law adult CalWORKs recipients are required to participate in welfare-to-work for a specified number of hours, and these recipients are required to participate in at least 20 hours each week in core welfare-to-work activities, as defined.~~

~~Existing law characterizes certain activities that are included in the scope of activities available in the welfare-to-work program as core activities.~~

~~Existing law provides that certain activities that are not specifically characterized as core activities shall count toward the core activity requirement to the extent these activities cannot be accomplished within the additional noncore hours of participation, the county determines the program is likely to lead to self-supporting employment, and the recipient makes satisfactory progress.~~

~~This bill would expand the scope of those activities that may be counted toward the core activity requirement to include satisfactory progress in a secondary school or in a course of study leading to a certificate of general education development.~~

~~This bill would also specify that recipient participation in vocational education and training or other activities necessary to assist an individual in obtaining unsubsidized employment shall not make those recipients ineligible to count activities toward the core activity requirement.~~

~~Under existing law, each county is required to administer the CalWORKs program and pay for a portion of CalWORKs aid grant and administrative costs. By revising the standards applicable to eligibility for benefits under the CalWORKs program, this bill would impose a state-mandated local program.~~

~~Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program.~~

~~This bill would instead provide that the continuous appropriation would not be made for purposes of implementing the bill.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1365.5 of the Health and Safety Code is
2 amended to read:
3 1365.5. (a) No health care service plan or specialized health
4 care service plan shall refuse to enter into any contract or shall
5 cancel or decline to renew or reinstate any contract because of
6 the race, color, national origin, ancestry, religion, sex, marital
7 status, sexual orientation, or age of any contracting party,
8 prospective contracting party, or person reasonably expected to
9 benefit from that contract as a subscriber, enrollee, member, or
10 otherwise.
11 (b) The terms of any contract shall not be modified, and the
12 benefits or coverage of any contract shall not be subject to any
13 limitations, exceptions, exclusions, reductions, copayments,
14 coinsurance, deductibles, reservations, or premium, price, or
15 charge differentials, or other modifications because of the race,
16 color, national origin, ancestry, religion, sex, marital status,
17 sexual orientation, or age of any contracting party, potential
18 contracting party, or person reasonably expected to benefit from
19 that contract as a subscriber, enrollee, member, or otherwise;
20 except that premium, price, or charge differentials because of the
21 sex or age of any individual when based on objective, valid, and
22 up-to-date statistical and actuarial data are not prohibited.
23 Nothing in this section shall be construed to permit a health care
24 service plan to charge different premium rates to individual

1 enrollees within the same group solely on the basis of the
2 enrollee's sex.

3 (c) It shall be deemed a violation of subdivision (a) for any
4 health care service plan to utilize marital status, living
5 arrangements, occupation, ~~gender~~ sex, beneficiary designation,
6 ~~zip codes~~ ZIP Codes or other territorial classification, or any
7 combination thereof for the purpose of establishing sexual
8 orientation. Nothing in this section shall be construed to alter in
9 any manner the existing law prohibiting health care service plans
10 from conducting tests for the presence of human
11 immunodeficiency virus or evidence thereof.

12 (d) This section shall not be construed to limit the authority of
13 the director to adopt or enforce regulations prohibiting
14 discrimination because of sex, marital status, or sexual
15 orientation.

16 (e) *"Sex" as used in this section shall have the same meaning*
17 *as "gender," as defined in Section 422.56 of the Penal Code.*

18 SEC. 2. *Section 10140 of the Insurance Code is amended to*
19 *read:*

20 10140. (a) No admitted insurer, licensed to issue life or
21 disability insurance, shall fail or refuse to accept an application
22 for that insurance, to issue that insurance to an applicant therefor,
23 or issue or cancel that insurance, under conditions less favorable
24 to the insured than in other comparable cases, except for reasons
25 applicable alike to persons of every race, color, religion, sex,
26 national origin, ancestry, or sexual orientation. Race, color,
27 religion, national origin, ancestry, or sexual orientation shall not,
28 of itself, constitute a condition or risk for which a higher rate,
29 premium, or charge may be required of the insured for that
30 insurance. *Unless otherwise prohibited by law, premium, price,*
31 *or charge differentials because of the sex of any individual when*
32 *based on objective, valid, and up-to-date statistical and actuarial*
33 *data or sound underwriting practices are not prohibited.*

34 (b) Except as otherwise permitted by law, no admitted insurer,
35 licensed to issue disability insurance policies for hospital,
36 medical, and surgical expenses, shall fail or refuse to accept an
37 application for that insurance, fail or refuse to issue that
38 insurance to an applicant therefor, cancel that insurance, refuse to
39 renew that insurance, charge a higher rate or premium for that
40 insurance, or offer or provide different terms, conditions, or

1 benefits, or place a limitation on coverage under that insurance,
2 on the basis of a person's genetic characteristics that may, under
3 some circumstances, be associated with disability in that person
4 or that person's offspring.

5 (c) No admitted insurer, licensed to issue disability insurance
6 for hospital, medical, and surgical expenses, shall seek
7 information about a person's genetic characteristics for any
8 nontherapeutic purpose.

9 (d) No discrimination shall be made in the fees or
10 commissions of agents or brokers for writing or renewing a
11 policy of disability insurance, other than disability income, on the
12 basis of a person's genetic characteristics that may, under some
13 circumstances, be associated with disability in that person or that
14 person's offspring.

15 (e) It shall be deemed a violation of subdivision (a) for any
16 insurer to consider sexual orientation in its underwriting criteria
17 or to utilize marital status, living arrangements, occupation,
18 gender, beneficiary designation, ZIP Codes or other territorial
19 classification within this state, or any combination thereof for the
20 purpose of establishing sexual orientation or determining whether
21 to require a test for the presence of the human immunodeficiency
22 virus or antibodies to that virus, where that testing is otherwise
23 permitted by law. Nothing in this section shall be construed to
24 alter, expand, or limit in any manner the existing law respecting
25 the authority of insurers to conduct tests for the presence of
26 human immunodeficiency virus or evidence thereof.

27 (f) This section shall not be construed to limit the authority of
28 the commissioner to adopt regulations prohibiting discrimination
29 because of sex, marital status, or sexual orientation or to enforce
30 these regulations, whether adopted before or on or after January
31 1, 1991.

32 (g) "Genetic characteristics" as used in this section shall have
33 the same meaning as defined in Section 10123.3.

34 (h) "Sex" as used in this section shall have the same meaning
35 as "gender," as defined in Section 422.56 of the Penal Code.

36 *SEC. 3. This act is not intended to mandate that health care*
37 *service plans or insurers must provide coverage for any*
38 *particular benefit, nor is it intended to prohibit sound*
39 *underwriting practices or criteria based on objective, valid, and*
40 *up-to-date statistical and actuarial data. Rather, the purpose of*

1 *this act is to prohibit plans and insurers from denying an*
2 *individual a plan contract or policy, or coverage for a benefit*
3 *included in the contract or policy, based on the person's sex, as*
4 *defined.*

5 SECTION 1. ~~Section 11322.8 of the Welfare and Institutions~~
6 ~~Code is amended to read:~~

7 ~~11322.8. (a) Unless otherwise exempt, an adult recipient in a~~
8 ~~one-parent assistance unit shall participate in welfare-to-work~~
9 ~~activities for 32 hours each week.~~

10 ~~(b) Unless otherwise exempt, an adult recipient who is an~~
11 ~~unemployed parent, as defined in Section 11201, shall participate~~
12 ~~in at least 35 hours of welfare-to-work activities each week.~~
13 ~~However, both parents in a two-parent assistance unit may~~
14 ~~contribute to the 35 hours if at least one parent meets the federal~~
15 ~~one-parent work requirement applicable on January 1, 1998.~~

16 ~~(c) An adult recipient required to participate under subdivision~~
17 ~~(a) or (b) shall participate for at least 20 hours each week in core~~
18 ~~welfare-to-work activities. The welfare-to-work activities listed~~
19 ~~in subdivisions (a) to (j), inclusive, and (m) and (n) of Section~~
20 ~~11322.6, are core activities for the purposes of this section.~~
21 ~~Participation in core activities under subdivision (m) of Section~~
22 ~~11322.6 shall be limited to a total of 12 months. Additional hours~~
23 ~~that the applicant or recipient is required to participate under~~
24 ~~subdivisions (a) or (b) of this section may be satisfied by any of~~
25 ~~the welfare-to-work activities described in Section 11322.6 that~~
26 ~~are consistent with the assessment performed in accordance with~~
27 ~~Section 11325.4, and included in the individual's~~
28 ~~welfare-to-work plan, described in Section 11325.21.~~

29 ~~(d) Hours spent in activities listed under subdivision (q) of~~
30 ~~Section 11322.6 shall count toward the core activity requirement~~
31 ~~in subdivision (c) to the extent that these activities are necessary~~
32 ~~to enable the individual to participate in core activities and to the~~
33 ~~extent these activities cannot be accomplished within the~~
34 ~~additional noncore hours of participation required by subdivision~~
35 ~~(e).~~

36 ~~(e) Hours spent in classroom, laboratory, or internship~~
37 ~~activities pursuant to subdivisions (k), (l), (o), and (p) of Section~~
38 ~~11322.6 shall count toward the core activity requirement in~~
39 ~~subdivision (c) to the extent these activities cannot be~~
40 ~~accomplished within the additional noncore hours of~~

1 participation, the county determines the program is likely to lead
2 to self-supporting employment, and the recipient makes
3 satisfactory progress. The provisions in paragraph (2), and
4 subparagraphs (A) and (B) of paragraph (3), of subdivision (a) of
5 Section 11325.23 shall apply to participants in these activities.

6 (f) ~~Spending hours in any or all of the activities specified in~~
7 ~~subdivision (m) or (r) of Section 11322.6 shall not make a~~
8 ~~recipient ineligible to count activities toward the core activities~~
9 ~~requirements of subdivision (d) or (e), as appropriate.~~

10 SEC. 2. ~~No appropriation pursuant to Section 15200 of the~~
11 ~~Welfare and Institutions Code shall be made for the purpose of~~
12 ~~implementing this act.~~

13 SEC. 3. ~~If the Commission on State Mandates determines that~~
14 ~~this act contains costs mandated by the state, reimbursement to~~
15 ~~local agencies and school districts for those costs shall be made~~
16 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
17 ~~4 of Title 2 of the Government Code.~~